

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

DARBIN P. DUMONCEAUX,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.: 4:12-cv-01014
)	
TIN, INC.,)	
)	
Defendant.)	

MOTION TO DISMISS COUNT II OF PLAINTIFF’S COMPLAINT

Defendant, TIN, Inc. (commonly known as “Temple-Inland”), through its successor in interest, International Paper Company ("IP"), by and through its undersigned counsel, hereby moves to dismiss Count II of Plaintiff’s Complaint for failure to state a claim upon which relief can be granted pursuant to Federal Rules of Civil Procedure 12(b)(6) and Local Rule 7-4.01. In support of this motion to dismiss Count II of Plaintiff’s Complaint, IP simultaneously herewith submits its Memorandum of Law and Authorities.

WHEREFORE, Defendant, TIN, Inc., through its successor in interest, International Paper Company, requests that this Court dismiss Count II of Plaintiff’s Complaint with prejudice. Defendant requests such other and additional relief as this Court deems appropriate, including its costs and expenses in bringing this motion.

Respectfully submitted,

HUSCH BLACKWELL LLP

By: /s/ Gerard K. Rodriguez

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CERTIFICATE OF SERVICE

I hereby certify that on June 14, 2012, a copy of the foregoing **Motion to Dismiss Count II of Plaintiff's Complaint** was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. Mail. Parties may access this filing through the Court's system.

/s/ Gerard K. Rodriguez